

MINUTES
REGULAR MEETING
CITY COUNCIL

May 2, 2016

Ronnie Thompson, Mayor

Sally W. Sandy, City Manager
Louis E. Vinay, Jr., City Attorney

John H. Cantrell)
Forrest A. Fleming) Councilmen
Sidney Simmons)
Vacant Seat)

Becky Brinkley, Interpreter

I. The meeting was called to order in the Council Chamber at City Hall at 6:00 p.m. by Mayor Thompson.

II. Public Comment – The Mayor stated the guidelines for public comment and speakers were called in order of sign-up.

- Richard Garrison resides at 105 Kimberly Drive. Garrison stated the (NCDOT) roadway in front of Catawba Meadows (Sanford Drive) is very congested due to signal timing at the Lenoir Road and Green Street crossroads. He suggest some type of traffic calming as well as a signal at the park entrance

No other speakers were signed up so the Mayor recessed the meeting at 6:02 p.m.

III. Business of the Council – The Mayor reconvened the meeting at 6:15 p.m.

IV. Pledge of Allegiance – Councilman Fleming led the recitation of the Pledge of Allegiance to the Flag.

V. Invocation – The invocation was given by the Rev. Larry Britt, retired / MDPS chaplain.

VI. Introduction of Council – The Mayor introduced the Council and staff.

VII. Retiree Resolution – The Mayor read a resolution recognizing retiring employee Joseph A. Blumetti. Joe retired from the City of Morganton on May 1, 2016 with over 22 years' service. Joe retired as Captain of the Criminal Investigations Division of Public Safety.

Upon motion by Councilman Fleming, seconded by Councilman Simmons, and carried unanimously, the Council adopted Resolution # 16-13 honoring retiring employee Joseph A. Blumetti.

Councilman Cantrell presented Blumetti with his resolution.

a) Consideration of Award of Service Weapon and Fire Services Helmet

The City Manager stated that historically, the City has followed the North Carolina General Statutes and awarded a retiring member with their service weapon along with their fire services helmet. This has been done by the Council declaring the particular items as surplus and then allowing someone to purchase the weapon for the officer for a fee of one dollar.

Captain Blumetti has complied with the North Carolina General Statutes in regard to obtaining a valid gun permit for the weapon. City staff recommends that his weapon, Glock 23, Gen 4, serial number XPH021, and his *Paul Conway American Classic* fire services helmet, serial number LH00071915, which were bought by the City Manager for one dollar and were presented to retired Captain Blumetti.

Upon motion by Councilman Simmons, seconded by Councilman Cantrell, and carried unanimously, the Council declared as surplus weapon, Glock 23, Gen 4, serial number XPH021, and a *Paul Conway American Classic* fire services helmet, serial number LH00071915, be sold and presented to retired Captain Blumetti.

- The Mayor read a resolution recognizing retiring employee Philip W. Whisnant. Philip retired from the City of Morganton on May 1, 2016 with over 21 years' service. Philip retired as Senior Distribution and Collection System Operator in the Water Resources Department.

Upon motion by Councilman Cantrell, seconded by Councilman Fleming, and carried unanimously, the Council adopted Resolution # 16-14 honoring retiring employee Philip W. Whisnant.

Councilman Simmons presented Philip with his resolution.

VIII. Presentation of Service Pin – The Personnel Committee and City staff have decided to recognize long-term employees for years of service at a Council meeting.

The Council honored Danny Lyle, Public Safety, Fire Engineer, with a 20 year service pin presented by Councilman Fleming.

IX. Public Advocacy Issues and Strategies

a. Upcoming events – The Mayor announced the following upcoming event at CoMMA: *Once – a new musical*, May 4. He also announced that Farmers' Markets continue Wednesdays on North Green Street and Saturdays at the Morganton Depot; and that TGIF Concerts begin Friday, May 6

with a cruise-in and concert on the Old Courthouse Square. TGIF will be held Fridays in May, June and July.

b. Proclamation: Honoring National Nursing Home Month

The Mayor read the proclamation, asked for a vote, and then presented it to Christina Franklin, Ombudsman for the WPCOG Area Agency on Aging. Ms. Franklin stated that Burke County has 6 nursing facilities with four of those being in the City of Morganton. She stated there are a total of 627 beds, reminding listeners that each bed represents a person. She stated the importance of relationships between residents and staff.

Upon motion by Councilman Cantrell, seconded by Councilman Simmons, the Council unanimously approved the Proclamation.

c. Proclamation: Bike Month in Morganton

The Mayor read the proclamation, asked for a vote, and then presented the proclamation to Charlotte Eidson, Coordinator, Burke County Catalyst for Healthy Eating and Active Living. Ms. Eidson stated her thanks saying that many things have been happening in Morganton and Burke County regarding increased physical activity. She works through Burke County Public Schools to improve "growing healthy people." She announced that Friday, May 20 is Bike to Work Day.

Upon motion by Councilman Fleming, seconded by Councilman Cantrell, the Council unanimously approved the Proclamation.

X. North Carolina Municipal Power Agency Number 1 Update – The City Manager stated there were no updates at this time.

XI. Consent Agenda – The City Manager presented the consent agenda and asked if any items should be removed. No request was made.

Upon motion by Councilman Fleming, seconded by Councilman Cantrell, and unanimously carried, the consent agenda was approved and each individual item adopted as stated, these being as follows:

A. Approved minutes for the following meetings: City Council Workshop held on March 15, 2016; Special Joint Meeting of the Burke County Board of Commissioners and the Morganton City Council held on March 28, 2016; Regular Meeting held on April 4, 2016; and Special Meeting – CoMPAS Business Assessment Report held on April 6, 2016

B. Adopted Ordinance #16-14 scheduling temporary closure of a certain State highway for the 2016 HOP Race.

C. Approved a budget amendment (Ord. #16-15) to appropriate funds (\$5,367) from NRA and corresponding expenditure at the Skeet Range.

D. Approved a budget amendment (Ord. #16-16) to appropriate \$244,268 installment purchase proceeds for a 2016 Mack garbage truck

E. Approved a budget amendment (Ord. #16-17) to appropriate \$105,000 Main Street solutions grant funds received from the State and grants awarded.

F. Approved a budget amendment (Ord. #16-18) to appropriate \$2,828 additional funds over \$20,612 already budgeted for sidewalk at Exit 105.

XII. Items Removed from Consent Agenda – There were no items removed from the Consent Agenda.

XIII. New Business

A. Public Hearings and Actions

1. Public Hearing and Consideration of the City of Morganton Community Development Block Grant (CDBG) Entitlement Program Action Plan FY 2016

The Mayor opened the public hearing at 6:34 p.m.

The City Manager asked Lisa Helton, WPCOG, to speak about the action plan. Lisa stated that this public hearing was held to receive public input and comments concerning the proposed 2016 Action Plan of the City of Morganton.

This Plan, as required by the U.S. Department of Housing and Urban Development (DHUD), outlines the goals and actions of the City of Morganton in its use of Community Development Block Grant (CDBG) funds for period, beginning July 1, 2016 and ending June 30, 2017

There being no public comment, the Mayor closed the public hearing at 6:35 p.m.

Upon motion by Councilman Cantrell, seconded by Councilman Simmons, and carried unanimously, the Council approved/adopted the FY 2016 CDBG Action Plan.

1a. Consideration of the Project Budget Ordinance for 2016 CDBG

The City Manager stated that a requirement of the CDBG Entitlement Program is that the City of Morganton adopt a Project Budget Ordinance each year to reflect the current budget revenues and expenditures.

Upon motion by Councilman Cantrell, seconded by Councilman Fleming, and carried unanimously, the Council approved the Project Budget Ordinance (Ord. #16-19) for the 2016 Community Development Block Grant Entitlement Program.

1b. Award of Administration Contract with the Western Piedmont Council of Governments

The City Manager stated that the City contracts with the Western Piedmont Council of Governments (WPCOG) for grant management assistance and to administer the 2016 CDBG Entitlement Program for a cost of \$30,000.

Upon motion by Councilman Simmons, seconded by Councilman Fleming, and carried unanimously, the Council approved a contract with WPCOG for Grant Management Assistance in relation to the 2016 CDBG Entitlement Program grant.

2. Public Hearing to Consider Amending Appendix A.4 of the Zoning Ordinance to Redefine Motor Vehicle and Boat Services to Include Body Work

The Mayor opened the public hearing at 6:38 p.m.

The City Attorney stated that subsequent to implementing the new Zoning Ordinance, City Staff has discovered that Motor Vehicle Body Repair was inadvertently prohibited within all zoning intensity districts. Upon review of the ordinance it has now been determined that the definition of Motor Vehicle and Boat Services should include body work, and in doing so the intent of the Mission 2030 Plan and spirit of the zoning ordinance would be maintained if these uses were permitted within High Intensity Districts (HID) and Exclusive Industrial Districts (EID). The current ordinance as approved does have conditions in place for Outdoor Storage associated with a Body Shop Use.

This amendment is recommended for approval by the staff, and was unanimously approved by the Planning Commission.

This Public Hearing was advertised in the Morganton News Herald on April 22 & 29, 2015.

There being no public comment, the Mayor closed the public hearing at 6:40 p.m.

Upon motion by Councilman Fleming, seconded by Councilman Simmons, and carried unanimously, the Council confirmed that the requested amendment is in compliance with the Morganton Mission 2030 goals and objectives.

Upon motion by Councilman Fleming, seconded by Councilman Simmons, and carried unanimously, the Council adopted a Zoning Ordinance Amendment (Ord. #16-20) to Appendix A.4 to redefine Motor Vehicle and Boat Services to include Body Work.

3. Public Hearing to Amend Section 4.2.4 and Section 4.2.5 of the Zoning Ordinance to Clarify and Reference an Exception to the 35' Maximum Height Requirement for Non-residential Buildings Within the High Intensity District (HID)

The Mayor opened the public hearing at 6:41 p.m.

The City Attorney stated that subsequent to implementing the new Zoning Ordinance, City Staff has discovered that an exception to the 35 foot height maximum for non-residential buildings within the High Intensity District (HID) is not adequately referenced in the ordinance, making it difficult to find. The staff has also discovered that no absolute height maximum was placed in the ordinance for these exceptions. This proposed ordinance amendment will insert new references in the appropriate sections, and places a maximum building height of 75 feet in place when the developer complies with the building design criteria set forth in the ordinance.

This amendment is recommended for approval by the staff and was unanimously approved by the Planning Commission.

This Public Hearing was advertised in the Morganton News Herald on April 22 & 29, 2015

There being no public comment, the Mayor closed the public hearing at 6:42 p.m.

Upon motion by Councilman Cantrell, seconded by Councilman Simmons, and carried unanimously, the Council confirmed that the requested amendment is in compliance with the Morganton Mission 2030 goals and objectives.

Upon motion by Councilman Cantrell, seconded by Councilman Simmons, and carried unanimously, the Council adopted a Zoning Ordinance Amendment (Ord. #16-21) to Section 4.2.4 and Section 4.2.5 to clarify and reference an exception to the 35' maximum height requirement for non-residential buildings within the high intensity district (HID)

4. Public Hearing to Amend TABLE 3.1 of the Zoning Ordinance to Include Single-family Dwellings as a Permitted Use Within the High Intensity District (HID)

The Mayor opened the public hearing at 6:43 p.m.

The City Attorney stated that subsequent to implementing the new Zoning Ordinance, City Staff has discovered that the ordinance inadvertently contained a typographical error in the Permitted Use Table excluding single family uses from all High Intensity Districts (HID). Obviously, there are many single family homes preexisting within HID areas of the City. It was never the staff's intent to exclude these uses from being permitted within HID areas. The proposed ordinance will correct this error.

This amendment is recommended for approval by the staff and was unanimously approved by the Planning Commission.

This Public Hearing was advertised in the Morganton News Herald on April 22 & 29, 2015

There being no public comment, the Mayor closed the public hearing at 6:44 p.m.

Upon motion by Councilman Simmons, seconded by Councilman Cantrell, and carried unanimously, the Council confirmed that the requested amendment is in compliance with the Morganton Mission 2030 goals and objectives.

Upon motion by Councilman Simmons, seconded by Councilman Fleming, and carried unanimously, the Council adopted an ordinance (Ord. #16-22) amending TABLE 3.1 of the zoning ordinance to include Single-family dwellings as a permitted use within the high intensity district (HID)

5. Public Hearing to Consider Amending Section 5.4.2 of the Zoning Ordinance to Allow Wall Signage Upon Existing Mansard Roofs

The Mayor opened the public hearing at 6:45 p.m.

The City Attorney stated that subsequent to implementing the new Zoning Ordinance, City Staff has discovered that the ordinance has created numerous non-conforming signage issues for pre-existing businesses. As currently written, the ordinance prevents wall signs from extending above the parapet or eave of the building, and also any sign erected in whole or in part on, upon the roof. There are numerous non-residential buildings within the jurisdiction that are built with mansard roofs and contain wall signage upon the face of the mansard roof, thereby rendering the signage non-conforming. This non-conformity prevents the business signage from being replaced or altered in any manner including replacement, substantial repair, or alteration without being brought into compliance with the current ordinance. Upon further review and consideration the current ordinance creates an undue financial burden on new and existing businesses whose buildings have mansard roofs. Due to the nature of the structure and absence of wall facades, typical wall signage does not provide adequate advertising for the business. To correct this, the staff and Planning Commission recommend the ordinance be amended to allow wall signage upon existing mansard roofs as long as they do not extend above the ridge or peak of the roof.

This Public Hearing was advertised in the Morganton News Herald on April 22 & 29, 2015

There being no public comment, the Mayor closed the public hearing at 6:47 p.m.

Upon motion by Councilman Fleming, seconded by Councilman Cantrell, and carried unanimously, the Council confirmed that the requested amendment is in compliance with the Morganton Mission 2030 goals and objectives.

Upon motion by Councilman Fleming, seconded by Councilman Cantrell, and carried unanimously, the Council adopted an ordinance (Ord. #16-23) amending Section 5.4.2 of the Zoning Ordinance to allow wall signage upon existing mansard roofs.

6. Public Hearing of Possible Nuisance at 106 Meeting Place and Consideration of an Ordinance to Abate Nuisance

The Mayor opened the public hearing at 6:48 p.m.

The City Attorney stated that the City's Code Enforcement Officer, having received several complaints, conducted an investigation of the property at 106 Meeting Place (sometimes also referred to as 709 E. Meeting Street), and found multiple likely nuisance code violations. City staff is very familiar with this house and lot, because it has been the subject of many complaints, and numerous nuisance citations, over the past 25 years. From her recent investigation, the Enforcement Officer found what appears to be collection of garbage and trash (some of it in plastic bags); accumulation of scrap metal, wood and plastics; and generally circumstances attractive to insects, rodents and other pests.

A Nuisance Violation Order was issued on March 22, 2016, and served on the property owner, Ms. Raye Leonhardt. She was given ten days to clean up the property and abate the nuisances, but did not do so. At that point, City staff could have taken direct action to clean up the property and charge the costs to the owner. However, given the unusually extensive nature of this nuisance, and the likely costs of remediation, City staff feels that authorization from City Council is wise and appropriate. Among other things, some heavy equipment will probably be needed to remove the huge accumulations of junk and trash.

Under Morganton's Code of Ordinances, before it may order nuisance remediation, Council must first conduct a public hearing. Such hearing was duly called at Council's April 4 meeting, and has been properly noticed for Council's May 6 meeting.

The City Attorney stated that Code Enforcement Officer Terry Jordan was present to testify. Terry stated that she has been working with Mrs. Leonhardt on this for many years. Terry shared some pictures to give Council an idea of the current state of the property. Mrs. Leonhardt would like to clean it herself but she is over 80 years of age. Terry stated the City has offered help, leaving a dump truck etc., but Terry feels, this is beyond Mrs. Leonhardt's ability to handle. Terry stated the property is a health and sanitation issue; it has gotten worse over the years. There have been complaints by the neighbors about rodents and wild animals. Terry has been asked if Mrs. Leonhardt would give the City permission to come in and clean up and Mrs. Leonhardt denied permission.

Councilman Simmons asked if it was true that this has been an issue for 25 years. Terry Jordan stated she has a file going back almost 25 years.

Leatrice Taylor resides at 712 East Meeting. Mrs. Taylor stated she is a neighbor and has spoken to Mrs. Leonhardt multiple times regarding skunks, possums, and rats. She stated her husband has offered to help Mrs. Leonhardt clean up around the property but

Mrs. Leonhardt has refused his offer. Mrs. Taylor stated that she understands that Mrs. Leonhardt has health problems, but feels neighbors should not have to put with the trash and rodents. Mrs. Taylor stated she did not think Mrs. Leonhardt would be able to do the clean-up by herself and was appreciative the City was taking action.

The City Attorney stated that Mrs. Leonhardt came to his office on Friday asking this hearing to be postponed. She stated she would likely not make it to this meeting.

The City Attorney noted that, if after the hearing Council finds there is indeed a nuisance requiring abatement, Council may proceed to adopt an Ordinance and Order requiring the same, in much the same manner as is done for remediation of dilapidated houses. The cost of clean-up and remediation of the Leonhardt property is estimated to be approximately \$1,500-\$2,000. Sufficient funds to do this remain in this Fiscal Year's budget for Nuisance Enforcement.

There being no further public comment, the Mayor closed the public hearing at 6:56 p.m.

Upon motion by Councilman Simmons, seconded by Councilman Cantrell, and carried unanimously, the Council declared a public nuisance on the property at 106 Meeting Place owned by Ms. Raye Leonhardt.

Upon motion by Councilman Simmons, seconded by Councilman Cantrell, and carried unanimously, the Council adopted Ordinance and Order (Ord. #16-24) requiring abatement of the nuisance at 106 Meeting Place, and providing that if the owner does not promptly complete such abatement, the City, directly or through a contractor, shall abate the nuisance and assess the full costs thereof to the property owner, placing a lien on the property for such costs if not promptly paid.

Councilman Cantrell asked what the schedule would be to begin clean-up. The City Attorney stated there is a 30-day period in which Mrs. Leonhardt can do the work and if not completed then staff will contract with a company for clean-up.

Councilman Simmons stated he did not want it to look like the City Council was punishing an 80-year-old lady, but this has been an on-going problem that needs to be dealt with.

B. Other Business

1. Consideration of Repair and Reconstruction of Storm Drain at 508-510 South Sterling Street and Budget Amendment Consideration of a Budget Amendment / Powell Bill – The City Manager stated this item was removed from the Agenda as not all information has been received.

2. Consideration of a Small Business Loan Agreement / Buck's Pizza

The City Manager stated that Jeff and Sherry Whisnant are the owners of Buck's Pizza located at 305 East Meeting Street. They have requested a City CDBG small business loan in the amount of \$15,000 to expand the existing restaurant operation by developing a new patio seating area with new outdoor furniture, and necessary operating capital to employ two additional qualifying full time employees. The owners have owned this franchise since 2007. The business relocated from Tannery Square to Morganton Trading Company in 2015. The relocation has been positive for the business which has seen sales increase by 19%. The owners project the new outdoor seating and dining will increase sales by an additional 3% annually over the next five year period.

The City has set aside CDBG Funds for the purpose of encouraging small businesses that meet both HUD hiring guidelines as well as City of Morganton Mission 2030 goals. Entrepreneurial development, Downtown Revitalization and Tourism enhancement were each identified as essential Mission 2030 goals for economic development. This business loan is being recommended by the staff to promote these goals.

Jeff Whisnant stated they are extremely happy to be here in downtown. He stated that next week Buck's would be celebrating their 20th anniversary in Morganton and they are appreciative of the community's support.

Upon motion by Councilman Fleming, seconded by Councilman Cantrell, and carried unanimously, the Council entered into a \$15,000 CDBG Loan Agreement with JS Whisnant, Inc. for the purpose of purchasing new seating for outdoor dining at 305 E. Union Street.

3. Consideration of Award of a Loan From the Main Street Solutions Revolving Loan Fund to NC Treat, LLC and Budget Amendment

The City Manager stated that a NC Main Street Solutions Fund Grant was originally awarded to Morganton in 2010 in the amount of \$271,455. As a component of that grant \$214,255.00 was designated to create a revolving loan program which was loaned out to 8 pre-qualified businesses, and the City retains a balance sufficient to make further loans.

At this time we have a request from Sabrina Hurt, the owner of NC Treat, LLC, for a loan in the amount of \$14,000. Treat operates the successful gift shop and bistro at 100 West Union Street, and plans to renovate its space to improve the restaurant/bar portion of the business.

NC Treat previously received a grant from the Main Street program, and has continued to meet all the terms of that grant. As a condition of receiving the present loan, a personal guaranty will be required from Ms. Hurt, as the principal of NC Treat, LLC.

To recap, loans are evaluated based on six criteria: credit, collateral, cash flow, capacity, character and conditions. Business Plans and projections are reviewed and kept on file.

A budget amendment to appropriate \$14,000 of Main Street revolving loan principal to be used as a Main Street loan to Treat is needed if loan is approved.

Upon motion by Councilman Cantrell, seconded by Councilman Fleming, and carried unanimously, the Council awarded a loan in the amount of \$14,000 to NC Treat, LLC, using monies from the Main Street Solutions Revolving Loan Fund, for renovation and business expansion purposes.

Upon motion by Councilman Cantrell, seconded by Councilman Simmons, and carried unanimously, the Council approved a Main Street loan agreement and budget amendment (Ord. #16-25) to appropriate \$14,000 for funds loaned to Treat.

4. Consideration of Personnel Policy on Conflicts of Interest

The City Attorney stated it is now a requirement for many State and Federal grant and loan programs that the City adopt a policy expressing certain rules and restrictions relating to potential conflicts of interest by city employees or agents when dealing with contracting, purchasing, real property and other matters.

The City already has a sufficient Ethical Conduct policy for elected officials, which includes "conflict of interest" provisions. This proposed new policy would extend similar provisions to all City employees. The policy would also establish procedures for addressing potential conflicts, including possible disciplinary action. Senior employees, along with elected officials, would also be required to submit biannual statements concerning employment and business interests of themselves and members of their immediate households.

Upon motion by Councilman Simmons, seconded by Councilman Cantrell, and carried unanimously, the Council adopted and approved a Policy on Conflicts of Interest applicable to all City employees and elected officials.

5. Appointments to Boards and Commissions

a. Human Relations Commission – The Human Relations Commission (HRC) is a committee established by the Mayor and City Council to address matters involving race, discrimination, human relations and to encourage and promote tolerance and goodwill to all people. By putting together this committee the Mayor and City Council get a closer look at ways of improving our city for all.

Terms of the following are set to expire: Karina Li, Barbara R. Myers, Buddy Armour and Jill King.

Due to attending school and working in Charlotte, Karina Li does not wish to be considered for reappointment at this time. The remaining members have been consistent members of the Human Relations Commission and are willing to continue serving on this Commission. New appointees' terms will expire in May 2019.

Gale Jones has expressed interest in being appointed to this board and an application was received. Tricia Evans Hunt has been offered as a name for nomination for a position but the City Clerk's office did not receive an application from Ms. Hunt.

The Mayor appointed Buddy Armour, Jill King, and Gale Jones to the Human Relations Commission for terms to expire on May 3, 2019. This leaves one vacancy which will be filled at the June 2016 City Council meeting.

6. 30-Day Notice for Boards and Commissions – The Council was alerted to upcoming vacancies due to term expirations of the following Boards and Commissions:

- a. Board of Adjustment
- b. Cable Television Commission
- c. Community Appearance
- d. Mainstreet Advisory
- e. Planning & Zoning
- f. Recreation Advisory

These expiring terms are expected to be filled at the next Council meeting scheduled for June 6, 2016.

XIV. Other Items from City Manager and City Council Not on Agenda

The City Manager stated she was at a meeting this morning and while driving back to City Hall, at the intersection of Meeting and White Street, she saw a black bear crossing the road.

The Mayor expressed his thanks for the support during the recent death of his brother.

XV. Reports – Reports were distributed for information.

XVI. Adjournment – The meeting was adjourned at 7:08 p.m.

Preparation of Minutes. These minutes were prepared by Mikela D. Russell, Assistant City Clerk. Copies of all resolutions, ordinances and orders referenced in these minutes are intended to be incorporated into these minutes as if fully set forth herein. Prior to including them into the official minute book, the minutes have been read and approved

May 2, 2016 continued

by the City Manager and the City Attorney, then distributed to each member of the City Council for further review and final approval, at a subsequent Council Meeting.

Mayor

Assistant City Clerk